

## Coast Guard, DOT

## § 2.05-30

the Mississippi River between its source and the Huey P. Long Bridge and all of its tributaries emptying thereinto and their tributaries, that part of the Atchafalaya River above its junction with the Plaquemine-Morgan City alternate waterway, and the Red River of the North.

[CGD 75-098, 40 FR 49326, Oct. 22, 1975, as amended by CGD 96-026, 61 FR 33662, June 28, 1996]

### § 2.05-25 Navigable waters of the United States; Navigable Waters; Territorial Waters.<sup>2</sup>

(a) Except as provided in paragraph (b) of this section, *navigable waters of the United States, navigable waters, and territorial waters* mean, except where Congress has designated them not to be navigable waters of the United States:

(1) Territorial seas of the United States;

(2) Internal waters of the United States that are subject to tidal influence; and

(3) Internal waters of the United States not subject to tidal influence that:

(i) Are or have been used, or are or have been susceptible for use, by themselves or in connection with other waters, as highways for substantial interstate or foreign commerce, notwithstanding natural or man-made obstructions that require portage, or

(ii) A governmental or non-governmental body, having expertise in waterway improvement, determines to be capable of improvement at a reasonable cost (a favorable balance between cost and need) to provide, by themselves or in connection with other waters, highways for substantial interstate or foreign commerce.

(b) *Navigable waters of the United States and navigable waters*, as used in sections 311 and 312 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1321 and 1322, mean:

<sup>2</sup>In various laws administered and enforced by the Coast Guard, the terms "State" and "United States" are defined to include some or all of the territories and possessions of the United States. The definitions in §§ 2.05-25 and 2.05-30 should be considered as supplementary to these statutory definitions and not as interpretive of them.

(1) Navigable waters of the United States as defined in paragraph (a) of this section and all waters within the United States tributary thereto; and

(2) Other waters over which the Federal Government may exercise Constitutional authority.

### § 2.05-27 Waters subject to tidal influence; waters subject to the ebb and flow of the tide; mean high water.

*Waters subject to tidal influence and waters subject to the ebb and flow of the tide* are interpreted as waters below mean high water. "Mean high water" is the average of the height of the diurnal high water at a particular location measured over a lunar cycle period of 19 years. These terms do not include waters above mean high water caused by flood flows, storms, high winds, seismic waves, or other non-lunar phenomena.

(Secs. 107, 108, Pub. L. 97-322, 96 Stat. 1582 (33 U.S.C. 495, 499, 502, 525, 533); 49 CFR 1.46(c))

[CGD 82-102, 47 FR 54299, Dec. 2, 1982]

### § 2.05-30 Waters subject to the jurisdiction of the United States; waters over which the United States has jurisdiction.<sup>2</sup>

*Waters subject to the jurisdiction of the United States and waters over which the United States has jurisdiction* mean:

(a) Navigable waters of the United States;

(b) Other waters that are located on lands, owned by the United States, with respect to which jurisdiction has been accepted in accordance with 33 U.S.C. 733 by the authorized federal officer having custody, control, or other authority over them;

(c) Other waters that are located on lands, owned by the United States, with respect to which the United States retains concurrent or exclusive jurisdiction from the date that the State in which the lands are located entered the union; and

(d) Waters within the territories and possessions of the United States and the Trust Territories of the Pacific Islands.<sup>2</sup>

<sup>2</sup>See footnote 2 to § 2.05-25.